

## **FOREST LEGACY – UASFLA (Yellow Book) Compliance Comments**

### **Property Inspection**

The appraiser selected for the assignment shall make a detailed field inspection of the subject property as identified in Exhibit \_\_\_, and shall make such investigations and studies as are necessary to derive sound conclusions and to prepare the appraisal report. ***Inspection must be adequate to have a good understanding of the property – particularly of those elements of value important in the market within which it would compete.***

### **Inspection Notice**

The appraiser shall provide the property owner and the Government 10 days advance notice of the examination date and shall give the owner, or the designated representative, and the Government an opportunity to accompany the contractor during the inspection of the property. These notices shall be documented in the appraiser's transmittal letter of the appraisal report. The appraiser shall certify that the signer of the report has personally visited the appraised property(ies) and all of the comparable transactions used in the comparative analyses. ***Key point is giving the landowner opportunity to accompany appraiser, and the opportunity to provide info he thinks important. This must included within appraiser's Certification.***

### **Definition of Terms**

Unless specifically defined herein or in either USPAP or UASFLA, definitions of all terms are the same as those found in *The Dictionary of Real Estate Appraisal* (Appraisal Institute). **UASFLA shall take precedence in any differences among definitions.**

## **TECHNICAL SPECIFICATIONS**

### **Application**

These technical specifications reflect the standards for the appraisal of property to be acquired as part of the Forest Legacy Program. **The specifications require the appraiser to analyze and determine the larger parcel.** If it is determined that the estate to be appraised is a part of a larger parcel, or constitutes multiple parcels, the appraiser shall consult with the assigned Forest Service Staff Review Appraiser for additional direction.

### **Federal Law Controls**

Federal law differs in some important aspects from the law of some states. Accordingly, it is incumbent upon the appraiser to understand the applicable Federal law as it affects the appraisal process in the estimation of market value.

The Federal law is reflected in the *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA). These specifications follow the UASFLA format, with emphasis on issues of special concern to the Forest Service. It should not be

construed that the appraiser is to consider only the emphasized items. Appraisal reports shall be prepared in compliance with UASFLA standards.

One aspect of the UASFLA that the appraiser should be aware of is the ***“unit rule.”*** The unit rule requires valuing property as a whole rather than by the sum of the values of the various interests into which it may have been carved. A second aspect of the unit rule is that different elements or components of a tract of land are not to be separately valued and added together. Follow direction in UASFLA, Section B-13. For example, it is inappropriate to simply add a forester’s opinion of timber value to an appraiser’s opinion of land value. The assignment is to reflect how the market would treat the land and timber selling together as a unit. **PLEASE NOTE: U.S. Treasury Regulations applicable to charitable contributions do not apply to Forest Legacy Assignments.**

### **UASFLA and USPAP Conflicts**

Conflicts between UASFLA and the Uniform Standards of Professional Appraisal Practice (USPAP) are minimal. When there is conflict, UASFLA takes precedence. It may be necessary to invoke the Jurisdictional Exception Rule to USPAP to meet certain standards of the UASFLA. Invocation of the Jurisdictional Exception Rule should never be invoked lightly and must include citation of the over-riding Federal policy, rule, or regulation that requires it. Any jurisdictional exceptions not specifically cited in the UASFLA shall be discussed with the assigned Forest Service Staff Review Appraiser.

### **Comprehensive Review**

Federal law requires a comprehensive technical review for compliance with Federal law, which is reflected in UASFLA and these specifications. Compliance with USPAP will also be reviewed. Findings of inadequacy shall be discussed and corrections requested once the appraisal report has been delivered. A value estimate is acceptable for agency use only after the assigned Forest Service Staff Review Appraiser has approved the appraisal report. (Forest Service Manual 5411)

### **Freedom of Information Act**

Freedom of Information Act provisions may result in the release of all or part of the appraisal report to the public. Prepare the report accordingly:

- Analytical methods and techniques shall be explained (in so far as possible) in a manner understandable to the public, as well as the reviewer.
- If providers of information request confidentiality, such information shall not be included in the report. It shall be made available to the reviewer upon request.

## Report Format

The report shall be typewritten on bond paper sized 8 1/2 by 11 inches with all parts of the report legible and shall be bound with a durable cover. The face of the report shall be labeled to identify the appraised property and to show the contract number, appraiser's name and address, and the date of the appraisal. All pages of the report, including the exhibits, shall be numbered.

## Report Contents

Following is a suggested format, based on UASFLA. Although it is not required that the appraiser strictly adhere to it, all items must be addressed. It should be noted that in most instances, these specifications reference UASFLA without reprinting them here. Important items are noted below, but are not all-inclusive. It is incumbent upon the appraiser to read, understand, and comply with UASFLA.

### PART I – INTRODUCTION

- 1) Title Page
- 2) Letter of Transmittal
- 3) Table of Contents
- 4) Appraiser's Certification: Follow the UASFLA (A-4) and USPAP guidelines making sure to include the following:
  - "I have made a personal inspection of the appraised property which is the subject of this report and all comparable sales used in developing the estimate of value. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
  - "The property owner, or his/her designated representative, was given the opportunity to accompany the appraiser on the property inspection.
  - "In my opinion, the market value (or other value as required) is \$ as of (date)." (Please note - partial acquisitions **MUST** include the appraiser's opinion of market value of the whole property as of the effective date of the appraisal, *and* the appraiser's opinion of the remainder property's market value after the government's acquisition, as of the effective date of the appraisal. **STOP HERE!** Any other reported value is inconsistent with the purpose of the appraisal and is, therefore, not acceptable)
- 5) Summary of Salient Facts and Conclusions – Include particulars for both before and after.
- 6) Photographs of Subject. Provide original color photographs or high quality color copies of photographs of the appraised property. Photographs may be a separate exhibit in the addenda or included with the narrative description of the appraised property and comparable sales. Show the following information with each photograph:

- Identify the photographed scene. Indicate direction of view, vantage point, and other pertinent information. A map may be used to show some of this information.
- The name of the photographer
- The date the photograph was taken
- Sometimes, woods are woods....but an attempt should be made to get a photo that captures the character of the property....same thing for comps

7) Statement of Assumptions and Limiting Conditions. *Note the following:*

- It is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, except as stated in the body of the report; the encumbrances must be identified in this section of the report, even preferably, in a section entitled Estate Appraised.
- It is unacceptable for the report to include a limiting condition precluding copying for legitimate government purposes.
- **The adoption of an uninstructed assumption or hypothetical condition that results in other than “as is” market value will invalidate the appraisal.** Include only factors relating to the appraisal problem (Avoid boilerplate). Assumptions and limiting conditions that are speculative in nature are inappropriate. Do not include limiting conditions that significantly restrict the application of the appraisal.
- In this section of the specifications, or in separate written instructions, the contractor must be instructed by the Forest Service as to necessary hypothetical conditions or extraordinary assumptions.
- “An appraiser cannot make an assumption or accept an instruction that is unreasonable or misleading. Agency instructions and/or legal instructions must have a sound foundation, must be in writing, and must be included in the appraisal report.” (UASFLA D-3)

8) Scope of the Appraisal

- This section shall fully describe the extent of investigation and analysis. The scope of work should be consistent with the intended use of the appraisal.

9) Purpose of the Appraisal: Note the following:

- For proposed easement acquisitions the purpose of the appraisal is to estimate the market value of the whole property (as is) as of the effective date of the appraisal and to estimate the market value of the remainder after the hypothetical impressments of a perpetual Conservation Easement. **The purpose is not to estimate the value**

**of the easement or development rights or some other stated purpose.**

- The property rights to be appraised for fee acquisitions and in the before scenario in partial acquisitions is fee simple subject to all outstanding easements, encumbrances, and restrictions identified in Schedule B of the Title Commitment that will be provided for the assignment. **List all reservations, outstanding rights, and other encumbrances. It is inappropriate to simply say that the appraisal is of the fee simple, unless it really is.** For multiple parcel properties, list by appraised parcel. If investigation reveals differences from property rights cited in the assignment, confer with the assigned Forest Service Staff Review Appraiser.
- Intended Use and Intended User: - The appraisal will be used for acquisition purposes consistent with the Forest Legacy Program. **USDA – Forest Service should be included as an intended user.** Do not confuse this assignment with one you may have for a charitable contribution with the IRS as an intended user.
- For acquisition appraisals, use the following Market Value definition:

*“Market value is the amount in cash, or terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.” (UASFLA A-9)*
- This definition makes no linkage between the estimated market value and exposure time. A specific exposure time shall not be cited in an appraisal report prepared under UASFLA standards. **Invoke the Jurisdictional Exception Rule to avoid a violation of USPAP standards, which require a specific exposure time.**

#### 15) Summary of Appraisal Problems

- Identify the appraisal as a partial acquisition case appraisal. Describe part being conveyed, and the principal differences in the property in the before and after condition. Describe the before and after methodology to be used.

## **Part II - FACTUAL DATA – BEFORE ACQUISITION (Larger Parcel)**

#### 11) Legal Description

- Note the following: The legal description is provided to the appraiser in the appraisal assignment. If a lengthy description would disrupt the narrative flow, it may be placed in the addenda and referenced in the text.

## 12)Area, City and Neighborhood Data

- The use of boilerplate demographic and economic data is unnecessary and undesirable. Report only those data that directly impact the market analysis.
- Area Map - Include a small-scale map showing the general location of the appraised property. It can be placed here or in the addenda.
- Neighborhood Map - Show the appraised property and its immediate neighborhood. The map may be placed here or in the addenda.

## 13)Property Data - Include the following:

- Site Description: Dimensions, size, shape, vegetative cover, soil types, topography, elevations, wetlands, flood plains, view, timber (TALK ABOUT THE TREES – THIS IS THE FOREST LEGACY PROGRAM), water rights, effect of encumbrances, livestock forage, access, road frontage, utilities, location, or other characteristics that may affect value. A statement must be made concerning the existence or nonexistence of mineral deposits having a commercial value. Evidence, if any, of hazardous substances shall be described by the appraiser.
- Improvements
- Fixtures
- Use History: Ten-year history required.
- Sales History: Include a ten-year record of all sales of the appraised property and, if the information is available, offers to buy or sell. If no sale has occurred in the past ten years, the appraiser shall report the last sale of the property, irrespective of date.
- Rental History: A three-year rental history is required. An unsupported statement that the rent does not represent market or economic rent is unacceptable.
- Assessed Value and Annual Tax Load
- Zoning and other land-use restrictions: The appraiser shall identify, in addition to zoning, all other land-use and environmental regulations, outstanding rights, and reservations that have an impact on the highest and best use and value of the property.
- Appraised Property Map or Plat: Show the dimensions and topography of the appraised property in detail on a large-scale topographic map, at least 2 inches to the mile. The map may be placed here or in the addenda. *Scale of map may vary depending on property appraised....key is a map that adequately conveys important*

*information. For some property types, an aerial photo or soil map may be more appropriate, or provided in addition to a topo map.*

### **Part III – DATA ANALYSES AND CONCLUSIONS**

#### **14) Analysis of Highest and Best Use**

- For acquisition appraisals, Section B-3 of UASFLA defines highest and best use as, “The highest and most profitable use for which the property is adaptable and needed or likely to be needed in the reasonably near future.” The appraiser may also refer to definitions as found in The Dictionary of Real Estate Appraisal.
- A determination of the larger parcel is required in every appraisal assignment. Apply the tests provided in UASFLA to determine the larger parcel(s) (UASFLA Sections A-14, B-3, B-11). If the property rights being acquired constitute two or more larger parcels, UASFLA requires an appraisal of each, concluding an independent opinion of value for each. If the property rights being appraised are a portion of a larger parcel, as determined by the appraiser, normally a before and after appraisal will be required. If the appraiser is uncertain as to the larger parcel determination, confer with the assigned Forest Service Staff Review Appraiser. If the larger parcel conclusion is different from the specific parcel assigned to be appraised, the appraiser shall inform the assigned Forest Service Staff Review Appraiser.
- The highest and best use conclusion must be clearly supported by market evidence and consider the four tests.
- Sale or exchange to the United States or other public entity is not an acceptable highest and best use. The use to which the government will put the property after it has been acquired is, as a general rule, an improper highest and best use. A non-economic highest and best use, such as “conservation,” “natural lands,” “preservation,” or any use that requires the property to be withheld from economic production in perpetuity, is not a valid use upon which to base an estimate of market value.
- If the highest and best use is for assemblage, describe and explain the relationship of the appraised property to the property to which it would be joined.
- If speculation or investment is the highest and best use of the property, describe and explain its interim and most probable ultimate use.
- When there is a claim that the highest and best use of a property is something other than the property’s existing use, the burden of proof is on the appraiser.
- Market value cannot be predicated upon potential uses that are speculative and conjectural.

- The appraiser's opinion of a reasonable probability of a zoning change must have a factual foundation. The appraisal report shall include a description of the investigation undertaken to determine the probability of rezoning. The investigation shall include thorough research of the use(s) and zoning of properties situated similarly to the subject property within the area covered by the zoning authority. The stated rezoning conclusion shall be supported by facts surfaced in the research. A property cannot be valued as if it were already rezoned for a different use. The property must be valued only in light of the probability of obtaining a zone change.

#### 15) Land Valuation

#### 16) Value Estimate by the Cost Approach

- Estimate the value of the land as though vacant and available for its highest and best use. Estimating land value by the use of confirmed sales of comparable, or nearly comparable, lands having like optimum uses is the preferred method.
- If the appraiser will place considerable weight on the cost approach to value in reaching a final value estimate, consideration should be given to retaining the services of a contractor or professional cost estimator to assist in developing the reproduction or replacement cost estimate.
- Estimating depreciation by the use of published tables or age-life computation is to be avoided. The appraiser must substantiate that it is not possible to abstract depreciation rates from the market if tables or age-life methodologies are used to compute depreciation. If this is the only method used, the weakness resulting from the lack of market support is to be addressed and considered in the reconciliation.

#### 17) Value Estimate by the Sales Comparison Approach

- Nearby arms length transactions, comparable to the land under appraisement, reasonably current, are the best evidence of market value. The Federal courts recognize the sales comparison approach as being normally the best evidence of market value.
- Analyze the last sale of the subject property if relevant. If not used, explain why. An unsupported claim that a sale of the subject property was a forced sale, or is not indicative of its current value, is unacceptable. (UASFLA B-5)
- When supportable by market evidence, the use of quantified adjustments is preferred. Percentage and dollar adjustments may, and often should, be combined. Resort to qualitative adjustments only when there is inadequate market data to support quantitative adjustments. Factors that cannot be quantified are dealt with in qualitative analysis. When quantitative and qualitative adjustments are both used in the adjustment process, all quantitative adjustments should be made first.



- Include a sales adjustment chart summarizing the adjustments and showing the final adjusted sale prices and how the sales compare with the subject property.
  - The documentation of each comparable sale shall include:
    - Parties to the transaction
    - Date of transaction
    - Confirmation of the transaction with buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale
    - Buyer motivation
    - Location
    - Size
    - Legal description
    - Property rights conveyed
    - Consideration
    - Financing terms
    - Sale conditions, such as arm's length or distressed
    - Improvements
    - Physical description (topography, vegetative cover, water influence, and other characteristics.)
    - Non-realty items
    - Economic characteristics
    - Zoning
    - Current use
    - Topographic map
    - Photographs
- In order to make meaningful comparisons between the sales and the appraised property, the Forest Service **requires inspection of all sales** directly compared with the appraised property. Unusual circumstances that preclude on-the-ground inspection or make inspection unreasonably difficult shall be discussed with the assigned Forest Service review appraiser prior to completion of the appraisal report. Waiver of the comparable sale inspection requirement must be made in writing by the assigned review appraiser in the form of a supplemental appraisal instruction. There shall be no waiver of the requirement for inspection of the appraised property.

- Include a list of the sales considered, but not actually used, in the addenda. Cite pertinent facts such as date, size, buyer and seller, price, terms, location, and explain why each sale was not used.
- The appraiser shall adhere to UASFLA direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to environmental organizations, sales to parties desiring to exchange the land to the government, distressed sales, and other atypical or non-arm's length sales. (UASFLA Sections B-4, D-9)

#### 18)The Income Capitalization Approach

- All data shall be market supported. Built-up rates, competing investment rates, industry surveys and the like should only be used as supporting data. Rates and income/expense statements should be based on subject data or similar properties.
- The Development Approach
  - The development approach should not be relied upon as the primary indicator of value when comparable sales are available with which to accurately estimate the property's market value. The appraiser shall adhere to UASFLA direction pertaining to this highly sensitive and complex method of valuation. (UASFLA Sections a-15, B-8) As in the income capitalization approach, all data shall be market supported. Built-up rates, competing investment rates, industry surveys and the like should only be used as supporting data. Rates and income/expense statements should be based on subject data or similar properties.

#### 19)Correlation and Final Value Estimate (Before or Fee Acquisitions)

- The appraiser must avoid making a summation appraisal. Appraisers are responsible for the final opinion of value even if it relies upon estimates developed by others (e.g., timber cruisers, mineral appraisers, cost estimators).

### **Part IV – FACTUAL DATA – AFTER ACQUISITION (Remainder)**

#### 20)Legal Description

- This may or may not be the same as the before
- Provide a detailed summary of the proposed conservation easement. In making an appraisal in conjunction with an easement acquisition, it is imperative that the appraiser have a clear understanding of the specific terms of the easement involved, as the burden on the land upon which the easement is imposed. There is no such thing as a generic conservation easement. Also, full consideration should be given to and due allowance made for the rights remaining in the owner.

#### 21)Neighborhood Factors

## 22)Property Data

### **Part V – DATA ANALYSIS & CONCLUSIONS – (Remainder)**

These analysis and valuation sections relating to the remainder property constitute a new appraisal. Many areas do not have properties encumbered with similar easements, and thus no sales of such properties to compare the subject to. This is a difficult appraisal problem. Appraisers must take a good hard look at the highest and best use of the property in the after condition, and develop a value analysis based on the best market data available.

## 23)Analysis of Highest and Best Use

- A complete 4 step analysis is required in light of the proposed easement.

## 24)Land Valuation

## 25)Value Estimate by Cost Approach

26)Value Estimate by Sales Comparison Approach – Consider sales that exhibit the same highest and best use characteristics as the subject. This may include similarly encumbered properties, property with use limitations due to other legal, physical, or locational constraints. The use of direct government purchases of easements or some type of valuation analysis of the acquisition such as percentage of fee is not consistent with the yellow book. Consult with the Forest Service Reviewer before considering some other valuation methodology.

27)Value Estimate by Income Capitalization Approach – Same issues as larger parcel - consistent with the highest and best use as encumbered.

## 28)Correlation and Final Value Estimate

### **Part VI – ACQUISITION ANALYSIS**

## 29)Recapitulation

- Show the difference between the value of the whole property and the value of the remainder by deducting the property's after value from it's before value. (UASFLA – A-29)

## 30)Allocation and Explanation of Damages

- Not required for Forest Legacy Cases

## 31)Explanation of Special Benefits

- Not required for Forest Legacy Cases

### **Part VII – EXHIBITS AND ADDENDA**

Include the following items as applicable to the appraisal problem if not included in the body of the report:

- Maps shall clearly identify the properties and be of sufficient quality to enable the reviewer to locate the properties on the ground. Maps shall be dated, include a legend, scale, and north arrow. The original copy of the report **MUST** contain original maps or vivid color copies.
  - Area Map - Small scale map showing the general location of the subject market area.
  - Neighborhood Map - This map shall show the appraised property and its immediate neighborhood.
  - Tract Map or Plat - This shall be a large-scale (2-inch/mile) USGS or similar quality map that clearly shows the appraised property and pertinent physical features such as roads, streams, and improvements. If portions of the appraised property are assigned separate values, such as in an assembled exchange, these areas shall be delineated on this map, or a separate map.
  - Comparable Sales Location Map - This map shall show the location of the appraised property and the sales. Delineate the boundaries of the appraised properties and comparable sales when the map is of sufficient scale to be meaningful. If all pertinent comparable sales cannot be shown on the same map as the appraised property, a smaller-scale map (such as a state road map) may be included in addition to the larger scale map.
- Comparable Sale Write-Ups - Include a completed form showing all information for each comparable transaction used in the appraisal. Include a plat (if available), a USGS topographic map (if appropriate), and color photo(s) of each sale. The transaction number must match the number of the transaction listed in the report.
- Legal Description - Include a full legal description of the property appraised if not shown in the narrative section of the report.
- Title Information - Include a copy of the preliminary title report for non-Federal land and a statement of interest (status report) for the Federal land, as applicable.
- Photographs - Provide quality color photographs of the appraised property and all comparables in the original and all copies of the final report. Photographs may be a separate exhibit in the addenda or included with the narrative description of the appraised property and comparable sales. Show the following information with each photograph:
  - Identify the photographed scene. Indicate direction of view, vantage point, and other pertinent information. A map may be used to show some of this information.
  - The name of the photographer.
  - The date the photograph was taken.

- Other Pertinent Exhibits - Present additional data such as documents and charts pertinent to the valuation and referred to in the body of the appraisal. It could include:
  - A copy of an easement or other deed.
  - A copy of technical reports from specialists. This may include a timber cruise summary signed by a timber cruiser, a road plan signed by an engineer, or a mineral report signed by a geologist.
  - Property owner permission to appraise.
- References - List sources of data, including documents and individuals.
- Qualifications of the Appraiser - Include the qualifications of all appraisers or technicians who made significant contributions to the completion of the appraisal assignment. The appraiser(s) must provide evidence of compliance with the certification requirements of the state(s) where the properties are located.